

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendments, claims 1-14 and 16-20 are pending in the application, with 1, 14 and 20 being the independent claims. Claims 1, 3, 4, 6, 7, 14 and 20 are sought to be amended. Applicants reserve the right to prosecute similar or broader claims, with respect to any cancelled or amended claims, in the future. These changes are believed to introduce no new matter, and their entry is respectfully requested.

This amendment should be considered after final as it places the application in condition for allowance and/or better condition for appeal, and does not require any further search or consideration by the Examiner as they are merely clarifying amendments.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112

Section 5 of the Office Action rejects claims 1, 14 and 20 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Although Applicants believe the previously pending claims were in full compliance with all sections of 35 U.S.C., in order to expedite prosecution Applicants have amended claims 1, 14 and 20. Based on the amendments above, Applicants respectfully request the reconsideration and withdrawal of the rejection regarding claims 1, 14 and 20.

Rejections under 35 U.S.C. § 103

Claims 1, 2, 6-11 and 13

Section 8 of the Office Action rejects claims 1, 2, 6-11 and 13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,154,729 to Cannon (“Cannon”) in view of U.S. Patent Application Publication No. 2002/0099649 to Lee (“Lee”). Applicants respectfully traverse the rejection and Response to Arguments section at pages 2-4 of the Office Action.

Without acquiescing to the propriety of the rejection, claim 1 is amended to recite features that distinguish over the applied references. For example, claim 1, as amended, recites, in part, “wherein the predetermined threshold ratio is set based on at least a first factor comprising a transaction value amount of each of the disputed credit transactions of the merchant.”

The Examiner states at page 5 of the Office Action, which Applicants do not acquiesce to, that Cannon teaches storing a predetermine threshold ratio of disputed credit transactions to total credit transactions at col. 3, lines 45-65. However, this portion of Cannon teaches a report that lists merchants whose ratio of chargebacks to transactions exceed a user selected value where the ratio is simply the number of chargebacks divided by the number of transactions. Thus, Cannot does not teach or suggest at least the above noted distinguishing feature of claim 1.

Lee states that “banks can levy fines on merchants having too many chargebacks,” with “fines escalating higher as chargebacks continue unabated.” (See Lee, paragraph [0019]). Thus, this portion of Lee discloses two concepts. First, fines for a merchant are triggered when the merchant incurs a quantity of chargebacks above a

certain level. Secondly, the level of fines imposed on a merchant is increased when the merchant, over time, continues to incur excessive chargebacks. In contrast, claim 1 recites a predetermined threshold ratio based on “*disputed* credit transactions,” in contrast to chargebacks that are a result of unresolved disputed transactions. In addition, claim 1 recites basing the threshold ratio on the “at least a first factor comprising a transaction value amount” of each of the disputed transactions of a merchant, not merely the volume of chargebacks or timeframe of “unabated” chargebacks, as suggested by Lee.

Therefore, as Lee does not disclose at least the above noted distinguishing feature of claim 1, Lee does not cure the deficiency of Cannon. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection as per claim 1.

In addition, at least based on their respective dependencies to claim 1, claims 2, 6-11 and 13 are distinguishable over the applied references for the reasons discussed above, in addition to their own patentable features. Therefore, for at least these reasons, Applicants respectfully request that the rejection of these claims under 35 U.S.C. § 103 be removed, and these claims be passed to allowance.

Claims 3-5, 12 and 14-20

Section 9 of the Office Action rejects claims 3-5, 12 and 14-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cannon in view of Lee, and in further view of U.S. Patent Application Publication No. 2004/0030644 to Sharper (“Sharper”). Applicants respectfully traverse. In addition, as claim 15 was cancelled in the April 23, 2009 amendment, the rejection of claim 15 is considered moot.

Claims 3-5 and 12

In reference to claims 3-5 and 12, the Examiner states that Sharper teaches, to which Applicants do not acquiesce, “the threshold ratio comprising three percent,” “establishing the threshold ratio based on an industry category including the merchant,” “wherein the industry category comprising comprises a standard industrial classification code,” and “wherein the threshold number of time periods is based on an industry category including the merchant.” However, the Examiner is not using Sharper to teach or suggest, nor does Sharper teach or suggest, at least the above-recited distinguishing features of claim 1. Therefore, Sharper does not cure the deficiencies of Cannon and Lee, alone or in combination, and therefore the references cannot be used to establish a *prima facie* case of obviousness for claims 3-5 and 12. Claims 3-5 and 12 depend from claim 1, and therefore are also distinguishable over the applied references for at least the reasons stated above with respect to claim 1, as well as for their additional distinguishing features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections as per claims 3-5 and 12.

Claims 14 and 20

Without acquiescing to the propriety of the rejection, claims 14 and 20 are amended to recite features that distinguish over the applied references. For example, claim 14 recites, in part, “wherein the first and second threshold ratios are set based on at a second factor comprising a transaction value amount of each of the disputed credit transactions of the merchant,” and claim 20 recites, in part, “a second factor comprising a transaction value amount of each of the disputed credit transactions of the merchant.” Therefore, as discussed above with respect to similar distinguishing features recited in

claim 1, Cannon and Lee, alone or in combination, do not teach at least the above recited features of claims 14 and 20.

On pages 14 and 18 of the Office Action the Examiner states that Sharper teaches, to which Applicants do not acquiesce, “that chargeback characteristics vary from industry to industry.” However, the Examiner is not using Sharper to teach or suggest, nor does Sharper teach or suggest, at least the above-recited distinguishing features of claims 14 and 20. Therefore, Sharper does not cure the deficiencies of Cannon and Lee, and the references cannot be used to establish a *prima facie* case of obviousness. Claims 16-19 depend from claim 14, and therefore are also distinguishable over the applied references for at least the reasons stated above, as well as for their additional distinguishing features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections as per claims 14 and 16-20.

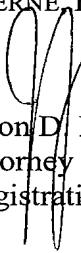
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Jason D. Eisenberg
Attorney for Applicants
Registration No. 43,447

Date: 10/6/09

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600
1030047_1.DOC